

Panaji, 3rd October, 1975 (Asvina 11, 1897)

SERIES I No. 27



OFFICIAL GAZETTE

GOVERNMENT OF GOA, DAMAN AND DIU

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Law and Judiciary Department

Notification

LD/3529/75-A

The following Central Bill which was recently passed by the Parliament and assented to by the President of India on 1-8-75 and published in the Gazette of India Part II, Section 1 dated 1-8-75 is hereby republished for general information of the public.

M. S. Borkar, Under Secretary (Law).

Panaji, 15th September, 1975.

The Employees' State Insurance (Amendment) Act, 1975

AN

ACT

Further to amend the Employees' State Insurance Act, 1948, and to incorporate an explanatory provision connected therewith in section 405 of the Indian Penal Code.

Be it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

1. **Short title and commencement.**— (1) This Act may be called the Employees' State Insurance (Amendment) Act, 1975.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

2. **Amendment of section 2.**— In section 2 of the Employees' State Insurance Act, 1948 (hereinafter referred to as the principal Act), in sub-clause (b) of clause (9), for the words "five hundred rupees" in both the places where they occur, the words "one thousand rupees" shall be substituted.

3. **Amendment of section 17.**— In sub-section (1) of section 17 of the principal Act, for the words

34 of 1948

"with a maximum monthly salary of five hundred rupees and above", the words "the maximum monthly salary of which exceeds one thousand and two hundred rupees" shall be substituted.

4. **Amendment of section 85.**— In section 85 of the principal Act, for the words "he shall be punishable with imprisonment which may extend to three months or with fine which may extend to five hundred rupees, or with both.", the following shall be substituted, namely:—

"he shall be punishable —

(i) where he commits an offence under clause (a), with imprisonment for a term which may extend to six months but —

(a) which shall not be less than three months, in case of failure to pay the employees' contribution which has been deducted by him from the employees' wages;

(b) which shall not be less than one month, in any other case,

and shall also be liable to fine which may extend to two thousand rupees:

Provided that the court may, for any adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a lesser term or of fine only in lieu of imprisonment;

(ii) where he commits an offence under any of the clauses (b) to (g) (both inclusive), with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.".

5. **Insertion of new sections 85A, 85B and 85C.**— After section 85 of the principal Act, the following sections shall be inserted, namely:—

85A. Enhanced punishment in certain cases after previous conviction.— Whoever, having been convicted by a court of an offence punishable under this Act, commits the same offence shall, for every such subsequent offence, be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both:

Provided that where such subsequent offence is for failure by the employer to pay any contribution which under this Act he is liable to pay, he shall, for every such subsequent offence, be punishable with imprisonment for a term which may extend to one year but which shall not be less

than three months and shall also be liable to fine which may extend to four thousand rupees.

85B. Power to recover damages. — (1) Where an employer fails to pay the amount due in respect of any contribution or any other amount payable under this Act, the Corporation may recover from the employer such damages not exceeding the amount of arrears as it may think fit to impose:

Provided that before recovering such damages, the employer shall be given a reasonable opportunity of being heard.

(2) Any damages recoverable under sub-section (1) may be recovered as an arrear of land revenue.

85C. Power of court to make orders. — (1) Where an employer is convicted of an offence for failure to pay any contribution payable under this Act, the court may, in addition to awarding any punishment, by order, in writing, require him within a period specified in the order (which the court may if it thinks fit and on application in that behalf, from time to time, extend), to pay the amount of contribution in respect of which the offence was committed.

(2) Where an order is made under sub-section (1), the employer shall not be liable under this Act in respect of the continuation of the offence during the period or extended period, if any, allowed by the court, but if, on the expiry of such period or extended period, as the case may be, the order of the court has not been fully complied with, the employer shall be deemed to have committed a further offence and shall be punishable with imprisonment in respect thereof under section 85 and shall also be liable to pay fine which may extend to one hundred rupees for every day after such expiry on which the order has not been complied with.”.

6. Insertion of new section 93A. — After section 93 of the principal Act, the following section shall be inserted, namely:

“93A. Liability in case of transfer of establishment. — Where an employer, in relation to a factory or establishment, transfers that factory or establishment in whole or in part, by sale, gift, lease or licence or in any other manner whatsoever, the employer and the person to whom the factory or establishment is so transferred shall jointly and severally be liable to pay the amount due in respect of any contribution or any other amount payable under this Act in respect of the periods up to the date of such transfer:

Provided that the liability of the transferee shall be limited to the value of the assets obtained by him by such transfer.”.

7. Amendment of section 95. — In section 95 of the principal Act, in sub-section (4), for the words “or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following”, the words “or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid” shall be substituted.

8. Amendment of the First Schedule. — In the First Schedule to the principal Act, in paragraph 3,

for the Table, the following Table shall be substituted, namely: —

“TABLE

Group of employees whose average daily wages are	Employees' weekly contribution (recoverable from employees)	Employer's weekly contribution	Total weekly contribution (employees and employers)	Corresponding daily standard benefit rate
1	2	3	4	5
1. Below Rs. 2	Nil	75	75	100
2. Rs. 2 and above but below Rs. 3	40	80	120	130
3. Rs. 3 and above but below Rs. 4	50	100	150	175
4. Rs. 4 and above but below Rs. 6	70	140	210	250
5. Rs. 6 and above but below Rs. 8	95	190	285	350
6. Rs. 8 and above but below Rs. 12	125	250	375	500
7. Rs. 12 and above but below Rs. 16	175	350	525	700
8. Rs. 16 and above but below Rs. 24	275	550	825	1000
9. Rs. 24 and above	375	750	1125	1500”

9. Amendment of Act 45 of 1860. — In section 405 of the Indian Penal Code, the *Explanation* shall be numbered as *Explanation 1* thereof and after the *Explanation* as so numbered, the following *Explanation* shall be inserted, namely: —

“Explanation 2. — A person, being an employer, who deducts the employees' contribution from the wages payable to the employee for credit to the Employees' State Insurance Fund held and administered by the Employees' State Insurance Corporation established under the Employees' State Insurance Act, 1948, shall be deemed to have been entrusted with the amount of the contribution so deducted by him and if he makes default in the payment of such contribution to the said Fund in violation of the said Act, shall be deemed to have dishonestly used the amount of the said contribution in violation of a direction of law as aforesaid.”.

34 of 1948.

Notification

LD/3536/75

The following notifications received from the Government of India, Ministry Home Affairs, New Delhi, are hereby republished for general information of the public.

M. S. Borkar, Under Secretary (Law).

Panaji, 15th September, 1975.

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS

Order

New Delhi, the 8th August, 1975

S. O. 425(E).—In pursuance of Rule 24 of the Defence and Internal Security of India Rules, 1971, the Central Government hereby appoints the Chief Censor to the Government of India to be a Censor for the purposes of the said Rule.

[No. F.II/14011/2/75-S&P(D.IV)]

By Order and in the name of the President,

C. V. NARASIMHAN
Jt. Secy.

Notification

New Delhi, the 11th August, 1975

G. S. R. 443(E).—In exercise of the powers conferred by section 3 of the Defence and Internal Security of India Act, 1971 (42 of 1971), and of all other powers enabling the Central Government in this behalf, the Central Government hereby makes the following rules further to amend the Defence and Internal Security of India Rules, 1971, namely:—

1. Short title and commencement.—(1) These rules may be called the Defence and Internal Security of India (Second Amendment) Rules, 1975.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Amendment of rule 48.—In rule 48 of the Defence and Internal Security of India Rules, 1971—

(a) sub-rule (1A) shall be renumbered as sub-rule (1B) thereof, and before sub-rule (1B) as so numbered, the following sub-rule shall be inserted, namely:—

“(1A) Where an order under sub-rule (1) has been made, no person shall circulate or cause to be circulated copies of any document published or made in contravention of the order or any extract or translation thereof.”.

(b) in sub-rule (3), for the words “any order”, the words, brackets, figure and letter “any provision of sub-rule (1A) or any order” shall be substituted.

[No. II/16012/3/75-S&P(D. II)]

C. V. NARASIMHAN
Jt. Secy.

Order

New Delhi, the 12th August, 1975

S. O. 431(E).—In exercise of the powers conferred by sub-rule (1) of rule 48 of the Defence and Internal Security of India Rules, 1971, the Central Government hereby makes the following further

amendments in the Order No. S. O. 275(E), dated the 26th June, 1975, namely:—

Amendments

In the said Order,—

(a) in clause (1),—

(i) in sub-clause (c), the word “or” shall be inserted at the end;

(ii) after sub-clause (c), the following sub-clauses shall be inserted, namely:—

(d) the Proclamation of Emergency made by the President on the 25th day of June, 1975 under article 352 of the Constitution, or

(e) the Order made by the President on the 27th day of June, 1975 under article 359 of the Constitution, or

(f) any action taken under the provisions of the Defence of India Act, 1971 (42 of 1971) or under the provisions of that Act as amended by the Defence of India (Amendment) Act, 1975 (32 of 1975) or under the rules and orders made thereunder, or

(g) any “prejudicial report” as defined in clause (7) of rule 36 of the Defence and Internal Security of India Rules, 1971;.

(b) in the Explanation, after the words “Chief Censor to the Government of India”, the words “Additional Chief Censor to the Government of India,” shall be inserted.

[No. II/14011/2/75-S&P(D.IV)]

By order and in the name of the President,

C. V. NARASIMHAN
Jt. Secy.

Notification

New Delhi, the 12th August, 1975

G. S. R. 444(E).—In exercise of the powers conferred by section 3 and section 34 of the Defence and Internal Security of India Act, 1971 (42 of 1971), and of all other powers enabling the Central Government in this behalf, the Central Government hereby makes the following rules further to amend the Defence and Internal Security of India Rules, 1971, namely:—

1. Short title and commencement.—(1) These rules may be called the Defence and Internal Security of India (Third Amendment) Rules, 1975.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Amendment of rule 48.—In rule 48 of the Defence and Internal Security of India Rules, 1971, in sub-rule (1), after clause (a), the following clause shall be inserted, namely:—

“(aa) direct that any matter required to be submitted for scrutiny to the authority aforesaid shall not be published in any document or class of documents except with the permission, in writing, of such authority and, where such authority deems it necessary to impose any conditions or restrictions in granting such permission, except in accordance with such condi-

tions and restrictions (including conditions as to making of any modifications, whether by way of additions, omissions or otherwise in the matter) as such authority may impose;".

[No. II/16012/3/75-S&P(D.II)]

C. V. NARASIMHAN
Jt. Secy.

Notification

LD/3594/75

The following notifications received from the Government of India, Ministry of Labour (Shram Mantralaya) New Delhi, are hereby republished for general information of the public.

M. S. Borkar, Under Secretary (Law).

Panaji, 17th September, 1975.

GOVERNMENT OF INDIA

(BHARAT SARKAR)

MINISTRY OF LABOUR

(SHRAM MANTRALAYA)

Dated New Delhi, 110001, the 3rd August, 1975

Notification

S. O. — In exercise of the powers conferred by the first proviso to section 6 of the Employees' Provident Funds and Family Pension Fund Act, 1952 (19 of 1952), the Central Government after making necessary enquiry into the matter, hereby specifies with effect from the 31st day of March, 1973 the establishment known as Messrs Cosme Farma Laboratories, Curti Ponda Goa including its branch at Eucharistic Congress Building, Convent Street, Bombay-1, for the purposes of the said proviso.

[No. S.35018(110)/73 PF. II(ii)]

Sd/-

R. P. NARULA
Under Secretary.

Dated New Delhi, 110001, the 3rd September, 1975

Notification

S. O. — Whereas it appears to the Central Government that the employer and the majority of the em-

ployees in relation to the establishment known as the Messrs Cosme Farma Laboratories, Curti, Ponda, Goa, including its branch at Eucharistic Congress Building, Convent Street, Bombay-1, have agreed that the provisions of the Employees' Provident Funds and Family Pension Fund Act, 1952 (19 of 1952), should be made applicable to the said establishment.

Now, Therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the thirty first day of March, 1973.

[No. S.35018(110)/73-PF. II(i)]

Sd/-

R. P. NARULA
Under Secretary.

Notification

LD/3491/75

The following notification received from the Government of India, Ministry of Health and Family Planning New Delhi, is hereby republished for general information of the public.

M. S. Borkar, Under Secretary (Law).

Panaji, 24th September, 1975.

MINISTRY OF HEALTH AND FAMILY PLANNING

(Department of Health)

Notification

New Delhi, the 1st October, 1974.

S. O. 584(E) — In exercise of the powers conferred sub-section (3) of section 1 of the Indian Medicine Central Act, 1970 (48 of 1970), the Central Government hereby appoints the 1st October, 1974, as the date on which the provisions of sections 18 to 22 (both inclusive) of the said Act shall come into force in the whole of India.

[No. V-26011/3/73-AE].

M. K. KUTTY
Jt. Secy.